

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA		DOCKET NO. 4:14CR28
		APRIL 26, 2016
VS.		
		10:47 A.M.
JONATHAN WADDLE, MARK		
HODGES, RENE TAMEZ		PLANO, TEXAS

VOLUME 1 OF 1, PAGES 1 THROUGH 18

REPORTER'S TRANSCRIPT OF CHANGE OF PLEA HEARING

BEFORE THE HONORABLE DON D. BUSH
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

FOR THE GOVERNMENT: ERNEST GONZALEZ
U.S. ATTORNEY'S OFFICE
101 EACH PARK BOULEVARD
SUITE 500
PLANO, TEXAS 75074

FOR DEFENDANT WADDLE: JOHN WILLIAM HOPPING
THE HOPPING LAW GROUP
15950 NORTH DALLAS PARKWAY
SUITE 400
DALLAS, TEXAS 75248

FOR DEFENDANT HODGES: N. LEE TATUM
ATTORNEY AT LAW
113 N. COMMERCE STREET
GAINESVILLE, TEXAS 76240

FOR DEFENDANT TAMEZ: HEATH E. HYDE
ATTORNEY AT LAW
900 JACKSON STREET
SUITE 535
DALLAS, TEXAS 75202

1 COURT REPORTER: TONYA B. JACKSON, RPR-CRR
2 FEDERAL OFFICIAL REPORTER
3 300 WILLOW, SUITE 239
4 BEAUMONT, TEXAS 77701
5

6 PROCEEDINGS REPORTED BY ELECTRONIC SOUND RECORDING;
7 TRANSCRIPT PRODUCED BY COURT REPORTER.
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 [OPEN COURT, DEFENDANTS PRESENT.]

2 THE COURT: Okay. Come on up, gentlemen. I'm
3 going to -- if there's no objection, Mr. Hopping,
4 Mr. Tatum, Mr. Hyde, Mr. Gonzalez, I'll do this all at
5 the same time.

02:59PM

6 MR. GONZALEZ: No objection, your Honor.

7 UNIDENTIFIED SPEAKER: No objection.

8 UNIDENTIFIED SPEAKER: No objection, your
9 Honor.

02:59PM

10 THE COURT: Very well.

11 COURTROOM DEPUTY: Here he comes.

12 THE COURT: Okay. Mr. Hyde, you don't have
13 any objection to me doing all these at one time?

14 MR. HYDE: No, your Honor.

02:59PM

15 THE COURT: Okay. Let me have these gentlemen
16 sworn in.

17 (Oath administered to the defendants.)

18 THE COURT: Okay. Mr. Waddle, I need your
19 full name, sir.

03:00PM

20 DEFENDANT WADDLE: Jonathan William Waddle.

21 THE COURT: Okay. Mr. Hodges?

22 DEFENDANT HODGES: Mark Fenton Hodges.

23 THE COURT: All right, sir. And then
24 Mr. Tamez?

03:00PM

25 DEFENDANT TAMEZ: Rene [unintelligible] Tamez.

1 THE COURT: All right. Now, gentlemen, each
2 of you have indicated your desire to plead guilty. Have
3 you received a copy of the latest indictment pending
4 against you, and do you understand what you're charged
5 with?

03:00PM

6 THE DEFENDANTS: Yes, your Honor.

7 THE COURT: I've had each of you sign a
8 consent form. I have explained your rights to you,
9 including your right to give your plea in front of me
10 here today.

03:01PM

11 Now, gentlemen, have you gone over that form;
12 and do you understand your rights?

13 THE DEFENDANTS: Yes, sir.

14 THE COURT: Now, are any of you taking any
15 medication at this time that might interfere with your
16 ability to plead?

03:02PM

17 THE DEFENDANTS: No, sir. No, your Honor.

18 THE COURT: Okay. I think just for the
19 record, Mr. Waddle, if you'll start off first and then
20 followed by Mr. Hodges and Mr. Tamez. At least we'll
21 have a record of everybody responding.

03:02PM

22 Now, gentlemen, I do want to remind you you
23 have been placed under oath. If you make any false
24 statement, the government could prosecute you for
25 perjury.

03:02PM

1 Now, I'm going to go over and explain some of
2 the rights to you that I've already explained to you in
3 detail in writing; but I'm required to do this in open
4 court.

03:02PM

5 Each of you has a right to persist in a plea
6 of not guilty, the right to a speedy and public trial,
7 the right to be tried by a jury or you can give up that
8 right and have the court try your case without a jury.
9 You have the right to the assistance of your lawyer

03:02PM

10 throughout these proceedings, including at trial.

11 Now, Mr. Waddle, are you satisfied with your
12 representation by Mr. Hopping?

13 DEFENDANT WADDLE: Yes, sir, I am.

14 THE COURT: Mr. Hodges, as to Mr. Tatum?

03:03PM

15 DEFENDANT HODGES: Yes, sir.

16 THE COURT: And then Mr. Tamez, as to
17 Mr. Hyde?

18 DEFENDANT TAMEZ: Yes, sir.

03:03PM

19 THE COURT: Now, at trial you have the right
20 to confront and cross-examine any witnesses against you,
21 the right to present a defense, the right to have
22 witnesses subpoenaed here to testify for you. You would
23 have the right against compelled self-incrimination. You
24 cannot be forced to testify; but if you want to testify,
03:03PM 25 you certainly have that right.

1 Do you understand those rights as I have gone
2 over them with you?

3 DEFENDANT WADDLE: Yes.

4 DEFENDANT HODGES: Yes, your Honor.

03:03PM

5 THE COURT: All right. Now, if you plead
6 guilty, there will be no trial of course; and you will be
7 giving up these rights except of course the right to
8 continued assistance of your lawyer.

03:03PM

9 Now, Mr. Gonzalez will go over the elements of
10 the offense to which you're pleading. The government has
11 the burden of proof beyond a reasonable doubt; but by you
12 pleading guilty, you will be admitting to the elements of
13 the offense. No further proof will be necessary.

14 All right, sir.

03:03PM

15 MR. GONZALEZ: Your Honor, the elements are as
16 follows:

03:03PM

17 The defendant and one or more persons in some
18 way or manner made an agreement to commit the crime
19 charged in the indictment; that is, to possess with the
20 intent to distribute 500 grams or more of a mixture or
21 substance containing a detectable amount of
22 methamphetamine or 50 grams or more of methamphetamine
23 (actual), a violation of United States Code, Section
24 841(a)(1).

03:04PM

25 Secondly, that the defendant knew the unlawful

1 purpose of the agreement and joined in it with the intent
2 to further it; and

3 Lastly, that the defendant knowingly and
4 voluntarily joined in the agreement; that is, with the
03:04PM 5 intent to further its unlawful purpose.

6 THE COURT: All right. Do you each of you
7 understand the elements of the offense as gone over with
8 you by Mr. Gonzalez?

9 DEFENDANT WADDLE: Yes, sir.

03:04PM 10 DEFENDANT HODGES: Yes, sir.

11 DEFENDANT TAMEZ: Yes, sir.

12 THE COURT: Now, I'm going to go over the
13 minimum and maximum penalties each of you are looking at
14 for a violation of this particular agreement.

03:04PM 15 Are they the same for all?

16 MR. GONZALEZ: Yes, your Honor. It's 10 to
17 life for everyone.

18 THE COURT: All right. Not less than 10
19 years, not more than life, a fine not to exceed
03:04PM 20 \$10 million, or both; supervised release of at least 5
21 years.

22 I know each of you have an 11(c)(1)(C), but
23 I'll talk with you very briefly about that later on.

24 There's a mandatory assessment of \$100 payable
03:05PM 25 before sentencing. The court can order forfeiture of

1 property involved or traceable to the offense.

2 Are there any forfeiture matters, sir?

3 MR. GONZALEZ: No, your Honor.

4 THE COURT: Restitution, cost of incarceration
03:05PM 5 and supervision.

6 So, do each of you understand that the
7 statutory range is not less than ten, not more than life?

8 UNIDENTIFIED DEFENDANT: Yes, sir.

9 THE COURT: Okay. Now, have -- I assume all
03:05PM 10 of you are United States citizens?

11 DEFENDANT WADDLE: Yes, sir.

12 DEFENDANT HODGES: Yes, your Honor.

13 DEFENDANT TAMEZ: Yes, sir.

14 THE COURT: Okay. Have any of you never pled
03:05PM 15 guilty to a felony before?

16 Okay. If you all pled guilty to a felony
17 before, I won't remind you that you're giving up certain
18 civil rights.

19 Now, the court can look at the Sentencing
03:05PM 20 Guidelines in trying to address the appropriate
21 punishment; but I will remind you those guidelines are
22 discretionary and they're not binding upon the court.

23 I do also want to remind you that each of you
24 have the right to appeal any sentence imposed upon you by
03:05PM 25 the court unless you waived or modified that in your plea

1 agreement.

2 Now, I have a copy of your plea agreements in
3 front of me. Did each of you go over your plea
4 agreements before you signed them, and did you understand
5 what you were signing?

03:06PM

6 DEFENDANT HODGES: Yes, your Honor.

7 DEFENDANT TAMEZ: Yes.

8 THE COURT: Mr. Waddle?

9 DEFENDANT WADDLE: Yes, sir.

03:06PM

10 THE COURT: Okay. Now, I'll not cover your
11 entire plea agreement with you. I will address a few
12 matters.

13 Each of you have entered into an 11(c)(1)(C)
14 with the government. That's your stipulation with the
15 government. I do want to remind you that the court is
16 not bound by the agreement, including the quantity
17 accepted. If the court does not accept the agreement,
18 you would have an opportunity to withdraw your plea.

03:06PM

19 Do each of you understand that?

03:06PM

20 DEFENDANT WADDLE: Yes.

21 DEFENDANT HODGES: Yes, your Honor.

22 DEFENDANT TAMEZ: Yes.

23 THE COURT: Okay. Now, each of you have
24 represented that your plea is freely and voluntarily made
25 and no one has forced you, threatened, or made any

03:06PM

1 promises to you other than what may be in the plea
2 agreement.

3 Is that true, Mr. Waddle?

4 DEFENDANT WADDLE: Yes, sir.

03:06PM

5 THE COURT: Is that true, Mr. Hodges?

6 DEFENDANT HODGES: Yes, your Honor.

7 THE COURT: Is that true, Mr. Tamez?

8 DEFENDANT TAMEZ: Yes.

03:07PM

9 THE COURT: All right. Now, Mr. Hopping, has
10 your client been competent and able to cooperate with
11 you?

12 MR. HOPPING: He has, your Honor.

13 THE COURT: Mr. Tatum? The same question.

14 MR. TATUM: Yes, your Honor.

03:07PM

15 THE COURT: And Mr. Hyde?

16 MR. HYDE: Yes.

03:07PM

17 THE COURT: All right. Now, each of you also
18 in your waiver of plea agreement -- I told you you had
19 the right to appeal any sentence; but in your waiver,
20 paragraph 9 of your respective plea agreements, you're
21 giving up the right to appeal the conviction, sentence,
22 fine, order of restitution, or forfeiture on all grounds;
23 you won't contest those matters in any post conviction
24 proceeding. You are keeping to yourself, though, the
03:07PM 25 right to appeal any punishment imposed in excess of the

1 statutory maximum. You're also reserving for yourself
2 the right to appeal or seek collateral review of a claim
3 of ineffective assistance of your lawyer.

03:08PM

4 Do each of you understand that those are
5 narrow issues of appeal, that that's all you've reserved
6 in this case?

7 DEFENDANT WADDLE: Yes, sir.

8 DEFENDANT HODGES: Yes, your Honor.

9 DEFENDANT TAMEZ: Yes.

03:08PM

10 THE COURT: All right. Then I'll have your
11 plea agreements and consent forms and the addendums
12 entered into the record in this case, along with the
13 statement of facts.

03:08PM

14 Now, each of you have signed a factual basis
15 or a factual statement indicating that it supports your
16 plea of guilty. I'm going to have Mr. Gonzalez go over
17 the factual basis as to each of you respective gentlemen,
18 and then I'll ask you if that's true and correct. All
19 right?

03:08PM

20 Let's start off with Mr. Waddle. I guess you
21 can do most of these together, Mr. Gonzalez.

22 MR. GONZALEZ: Yes, your Honor.

03:08PM

23 As to Mr. Waddle, the defendant hereby
24 stipulates and agrees that at all times relevant to the
25 second superseding indictment herein, the following facts

1 were true:

2 No. 1, that the defendant Jonathan Waddle who
3 is changing his plea to guilty is the same person charged
4 in the second superseding indictment.

03:09PM

5 No. 2, the events described in the second
6 superseding indictment occurred in the Eastern District
7 of Texas and elsewhere.

03:09PM

8 No. 3, that Mr. Waddle and one or more persons
9 in some way or manner made an agreement to commit the
10 crime charged in the second superseding indictment to
11 knowingly and intentionally possess with the intent to
12 distribute and dispense at least 1.5 kilograms but less
13 than 15 kilograms of a mixture or substance containing a
14 detectable amount of methamphetamine or at least 150
15 grams but less than 1.5 kilograms of methamphetamine
16 (actual).

03:09PM

17 No. 4, that Mr. Waddle knew of the unlawful
18 purpose of the agreement and joined in it with the intent
19 to further it.

03:09PM

20 No. 5, that Mr. Waddle knew that the amount
21 involved during the term of the conspiracy involved at
22 least 1.5 kilograms but less than 15 kilograms of a
23 mixture or substance containing a detectable amount of
24 methamphetamine or at least 150 grams but less than 1.5
25 kilograms of methamphetamine (actual). This amount was

03:09PM

1 involved in the conspiracy after the defendant entered
2 the conspiracy, was reasonably foreseeable to the
3 defendant, and was part of jointly undertaken activity.

4 And lastly, that Mr. Waddle's role in the
03:10PM 5 conspiracy was to supply co-conspirators with multigram
6 quantities of methamphetamine from various sources which
7 would then be distributed to other co-conspirators and
8 co-defendants during the term of the conspiracy in the
9 Eastern and Northern Districts of Texas.

03:10PM 10 THE COURT: All right. Is that true and
11 correct, Mr. Waddle?

12 DEFENDANT WADDLE: It's true, yes, sir.

13 THE COURT: What is your plea, sir, to Count 1
14 of the second superseding indictment charging you with a
03:10PM 15 violation of 21 U.S.C., Section 846?

16 DEFENDANT WADDLE: Guilty.

17 THE COURT: All right, sir. Now as to
18 Mr. Hodges' case.

19 MR. GONZALEZ: Yes. As to Mr. Hodges,
03:10PM 20 Mr. Hodges stipulates and agrees that at all times
21 relevant to the second superseding indictment the
22 following facts were true:

23 That he is the same Mark Hodges who is
24 changing his plea to guilty. He's the same person
03:10PM 25 charged in the second superseding indictment.

1 That the events described in the second
2 superseding indictment occurred in the Eastern District
3 of Texas and elsewhere.

4 That Mr. Hodges and one or more persons in
03:11PM 5 some way or manner made an agreement to commit the crime
6 in the second superseding indictment to knowingly and
7 intentionally possess with the intent to distribute and
8 dispense 1.5 kilograms but less than 5 kilograms of a
9 mixture or substance containing a detectable amount of
03:11PM 10 methamphetamine or at least 150 grams but less than 500
11 grams of methamphetamine (actual).

12 That Mr. Hodges knew of the unlawful purpose
13 of the agreement and joined in it with the intent to
14 further it.

03:11PM 15 That Mr. Hodges knew that the amount involved
16 during the term of the conspiracy involved at least 1.5
17 kilograms but less than 5 kilograms of a mixture or
18 substance containing a detectable amount of
19 methamphetamine or at least 150 grams but less than 500
03:11PM 20 grams of methamphetamine (actual).

21 That this amount was involved in the
22 conspiracy after the defendant entered the conspiracy,
23 was reasonably foreseeable to the defendant, and was
24 part of jointly undertaken activity.

03:11PM 25 And lastly, that Mr. Hodges' role in the

03:12PM

1 conspiracy was to supply co-conspirators with kilogram
2 quantities of methamphetamine from various sources which
3 would then be distributed to other co-conspirators and
4 co-defendants during the term of the conspiracy in the
5 Eastern and Northern Districts of Texas.

6 THE COURT: All right. Is that true and
7 correct, Mr. Hodges?

8 DEFENDANT HODGES: Yes, your Honor.

03:12PM

9 THE COURT: And what is your plea, sir, to
10 Count 1 of the second superseding indictment charging you
11 with a violation of 21 U.S.C., Section 846?

12 DEFENDANT HODGES: Guilty, your Honor.

13 THE COURT: All right. Now as to Mr. Tamez.

03:08PM

14 MR. GONZALEZ: The defendant Rene Tamez hereby
15 stipulates and agrees that at all times relevant to the
16 second superseding indictment herein, the following facts
17 were true:

03:12PM

18 No.1, that the defendant Rene Tamez who is
19 changing his plea to guilty is the same person charged in
20 the second superseding indictment.

21 No. 2, that the events described in the second
22 superseding indictment occurred in the Eastern District
23 of Texas and elsewhere.

03:12PM

24 No. 3, that Mr. Tamez and one or more persons
25 in some way or manner made an agreement to commit the

03:12PM

1 crime charged in the second superseding indictment, to
2 knowingly possess with the intent to distribute and
3 dispense 15 kilograms and up to 45 kilograms of a mixture
4 or substance containing detectable amounts of
5 methamphetamine or 1.5 kilograms but less than 4.5
6 kilograms of methamphetamine (actual).

03:13PM

7 No. 4, that Rene Tamez knew of the unlawful
8 purpose of the agreement and joined in it with the intent
9 to further it.

03:13PM

10 No. 5, that Rene Tamez -- or it was reasonably
11 foreseeable from jointly undertaken activity that the
12 amounts involved during the term of the conspiracy
13 involved 15 kilograms but less than 45 kilograms or more
14 of a mixture or substance containing a detectable amount
15 of methamphetamine or 1.5 kilograms but less than 4.5
16 kilograms or more of methamphetamine (actual).

03:13PM

17 That Rene Tamez's role in the conspiracy was
18 to supply co-conspirators with kilogram quantities of
19 methamphetamine from various sources which would then be
20 distributed to other co-conspirators and co-defendants
21 during the term of the conspiracy in the Eastern and
22 Northern Districts of Texas.

03:13PM

23 THE COURT: All right. Mr. Tamez, is that
24 true and correct, sir?

25 DEFENDANT TAMEZ: Yes, it is.

1 THE COURT: And what is your plea, sir, to
2 Count 1 of the second superseding indictment charging you
3 with a violation of 21 U.S.C., Section 846?

4 DEFENDANT TAMEZ: Guilty.

03:13PM

5 THE COURT: All right, sir.

6 In the case of *The United States of America*
7 *versus Jonathan Waddle, Mark Hodges, Rene Tamez,*

03:14PM

8 4:14CR28, the court will recommend that the district
9 court accept your pleas of guilty. I find each is
10 competent to plead at this time, each has had able
11 assistance of counsel, each understands their trial
12 rights, the nature of the charges against them, the
13 maximum penalties that can be given to them under
14 sentence in connection with their respective indictments.

03:14PM

15 You understand that the court will refer to
16 the Sentencing Guidelines in assessing any sentence.
17 However, those guidelines are merely discretionary. I
18 find that each plea is voluntary, there's a factual basis
19 for each plea, and that ends of justice will be served by
20 the acceptance of a plea of guilty.

03:14PM

21 Anything further from the government,
22 Mr. Gonzalez?

23 MR. GONZALEZ: No, your Honor. Thank you.

24 THE COURT: Mr. Hyde?

03:14PM

25 MR. HYDE: No, your Honor.

1 THE COURT: Mr. Tatum?

2 MR. TATUM: No, your Honor.

3 THE COURT: Mr. Hopping?

4 MR. HOPPING: No, your Honor.

03:14PM

5 THE COURT: All right. Good luck to you,
6 gentlemen.

7 We'll stand in recess on this matter.

8 (Proceedings adjourned, 11:01 a.m.)

9

10

11

CERTIFICATION

12

13

14

I certify that on this date, June 22, 2016, the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

15

16

TONYA JACKSON, RPR-CRR

17

18

19

20

21

22

23

24

25